

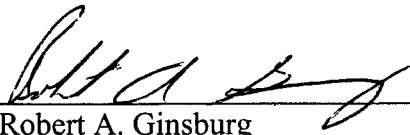
MEMORANDUM

GOE
Agenda Item No. 3 (G)

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** April 20, 2004

FROM: Robert A. Ginsburg
County Attorney **SUBJECT:** Ordinance amending
Section 32-122 providing
for certified mail notification
with regard to tampering with
water facilities

The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Dorrin D. Rolle.


Robert A. Ginsburg
County Attorney

RAG/bw



MEMORANDUM

TO: Honorable Chairperson Barbara Carey-Shuler, Ed.D.
and Members, Board of County Commissioners

DATE:

FROM: George M. Burgess
County Manager

A handwritten signature in black ink, which appears to read "Burgess", is written over the printed name of George M. Burgess.

SUBJECT: Ordinance Amending
Section 32-122 relating to
Tampering with
Water Facilities

This ordinance amending section 32-122 of the Code of Miami-Dade County relating to tampering with water facilities will have a fiscal impact on Miami-Dade County.

Section 32-122 of the Code applies responsibility for repair or replacement of these fixtures to the property owner. Presently, after tampering is discovered, a citation is issued immediately. Frequently the delinquent tenant moves out of the apartment before the tampering issue is resolved. Collection efforts follow the tenant for any unpaid water bills. Additionally, water connection for the current tenant or a new tenant will not be approved until settlement of the citation.

Eventually, the majority of citations issued to residential properties for tampering are resolved by the landlords in order to resume rental of the property. However, adding a thirty-day notice prior to the citation may inhibit property owners from making timely repairs and expose the County to additional, expensive unpaid water bills. In the event that a new tenant occupies the premises prior to the citation being issued, water service will be resumed. Continued plumbing problems will result in high bills for the new tenant as well, possibly causing the non-payment/ tampering cycle to begin again.


A conservative estimate of the fiscal impact is \$75,000 per year from approximately 375 additional uncollectible accounts valued at \$200 each.



MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners **DATE:** February 17, 2004

FROM: 
Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Agenda Item No. 13(J)

Veto _____

2-17-04

Override _____

ORDINANCE NO. _____

ORDINANCE AMENDING SECTION 32-122 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; REQUIRING NOTIFICATION TO OWNERS OF RENTAL PROPERTIES CITED FOR TAMPERING WITH UTILITY FIXTURES AND PROVIDING PROCEDURES THEREFOR; PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:

Section 1. Section 32-122 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:1

Sec. 32-122 Strict Liability

>>(1)<< Whenever a violation of this chapter occurs or exists, any person, individually or otherwise who has a legal, beneficial or equitable interest in the device or instrumentality causing or contributing to the violation or who has a legal, beneficial, or equitable interest in the real property which is receiving the benefit of the utility service shall be jointly and severally liable for said violation regardless of fault and regardless of knowledge of the violation. This provision shall be construed to impose joint and several liability regardless of fault and regardless of knowledge of the violation, upon all persons, individually or otherwise, who, although no longer having any such legal, beneficial or equitable interest in said device or instrumentality or real property, did have such an interest at any time during which such violation existed or occurred or continued to exist or to occur. This provision shall be liberally construed and shall be retroactively applied to protect the public health, safety, and welfare and to accomplish the purposes of this Article; >>provided, however, that no owner of rental property shall be held liable under this section for tampering at any rental property unless the County first notifies, in accordance with Section 32-122(2) of the Miami-Dade County Code, said owner of the County's intent to impose liability.<<

1 Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

>>(2) Notice to Owners of Tampering at Rental Property

- (a) No citation, order, or action issued or filed pursuant to this Section arising out of tampering at any rental property shall be effective against the owner of said rental property unless that owner is first given notice of the County's intent to issue such citation, order, or action. Said notice shall be by certified mail, with return receipt requested, to the owner of the rental property as shown on the tax records of Miami-Dade County and shall be issued no less than thirty (30) days prior to the issuance or filing of any citation, order, or action pursuant to this Section against such owner. Said notice shall be deemed given upon mailing of said notice by the County, whether or not said notice is received.
- (b) In the event that a citation, action, or order is or has been filed or issued pursuant to any provision hereof against a tenant or other person using or occupying a rental property other than the owner of such property as listed on the tax records of Miami-Dade County, the County shall provide a reference to this earlier citation, action, or order in the notice to the owner of such property specified in this section.
- (c) When used herein, the term "rental property" shall include any property, including a single family home, which is used or occupied, in whole or in part, by any person other than the owner of said property as shown on the tax records of Miami-Dade County, pursuant to a rental agreement, either written or oral, between the owner and a tenant. <<

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any Sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention and the word "ordinance" may be changed to "section", "article" or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency.

RAG

Prepared by:

DM

David M. Murray

Sponsored by Commissioner Dorrin D. Rolle